

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT
January 24, 2011
Elisabeth A. Shumaker
Clerk of Court

CYNTHIA MARIE MATTSON,

Plaintiff - Appellant,

v.

JANET NAPOLITANO, Secretary,
Department of Homeland Security,

Defendant - Appellee.

No. 10-1519
(D.C. No. 1:09-CV-02024-PAB-BNB)
(D. Colo.)

ORDER

Before **BRISCOE**, Chief Circuit Judge, **TACHA**, and **LUCERO**, Circuit Judges.

This appeal is before the court based on Appellant-Plaintiff Cynthia Mattson's "response to order" dismissing her appeal for failure to prosecute as well as her "response to Appellee's memorandum brief." Appellant's "response to order" is construed as a 10th Cir. R. 42.2 motion to reinstate

Upon consideration, Appellant-Plaintiff's motion to reinstate the appeal is **GRANTED**. The mandate is **RECALLED**. The December 13, 2010 Order of dismissal is **VACATED**. The appeal is **REINSTATED**.

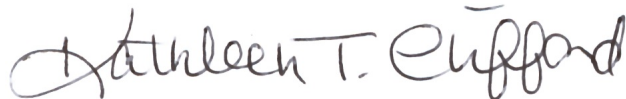
Upon further consideration, the appeal is dismissed. The notice of appeal is untimely.

In a September 15, 2010 Order, the district court adopted the magistrate judge's recommendation that Defendant's motion to dismiss be granted, and dismissed Plaintiff's complaint in its entirety. Final judgment was entered on September 16, 2010. Plaintiff, proceeding *pro se*, appeals.

The time limit for filing a notice of appeal in a civil case is a "jurisdictional requirement." *Bowles v. Russell*, 551 U.S. 205, 214 (2007). The sixty-day deadline under Fed. R. App. P. 4(a)(1)(B) for the filing of a timely notice of appeal in this civil case expired on November 15, 2010. Plaintiff's notice of appeal was filed in the district court on November 16, 2010, which was one-day past the sixty-day filing deadline. Plaintiff did not file a motion under Fed. R. App. P. 4(a)(5) in the district court for an extension of time, and this court may not extend the time to file an appeal. *See Brumark Corp. v. Samson Resources Corp.* 57 F.3d 941, 949 (10th Cir. 1995). *Pro se* appellants must comply with the requirements of the Federal Rules of Appellate Procedure that govern all litigants. *See Ogden v. San Juan County*, 32 F.3d 452, 455 (10th Cir. 1994).

Accordingly, the appeal is **DISMISSED** for lack of appellate jurisdiction.

Entered for the Court,
Elisabeth A. Shumaker, Clerk

A handwritten signature in dark ink, reading "Kathleen T. Clifford". The signature is written in a cursive, flowing style.

Kathleen T. Clifford
Attorney - Deputy Clerk